



In the
Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present
Shri J.K. Pandey
Chief General Manager

May 30, 2019

CA No. MUM850/2019

In the matter of
M/s United Shippers Ltd
3rd Floor , Prospect Chambers,
D N Rd , Fort,
Mumbai 400001

(Applicant)

In exercise of the powers conferred under section 15(1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

Order

- 1** The applicant has filed the compounding application dated March 08, 2019, received at the Reserve Bank on March 11, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are in respect of the following Regulations/ paras under Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000, notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 and as amended from time to time (hereinafter referred to as FEMA 20):



- a) Regulation 10(B)(2) read with Para 10 under Schedule 1 of FEMA 20: delay in filing form FCTRS.
- 2 Brief details of the applicant company are as follows:

Date of Incorporation	November 11, 1952
Its main activities are:	Cargo handling incidental to land transport Cargo handling incidental to water transport

- 3 The applicant company, which is an Indian Resident acquired the equity shares of M/s USL NMM Logistics Ltd from Non Residents and filed FCTRS on dates indicated below:

S.No	Amount Involved (in INR)	Date of transfer (DD-MM-YY) (2)	Remittance date (DD-MM-YY)	Date of filing FCTRS (DD-MM-YY)	Para 10 delay
1	2,500,000.00	17/10/11	05/10/11	07/09/13	1Y 9M 3D
2	1,250,000.00	17/10/11	05/10/11	07/09/13	1Y 9M 3D
3	2,500,000.00	17/10/11	05/10/11	07/09/13	1Y 9M 3D
4	1,250,000.00	17/10/11	05/10/11	07/09/13	1Y 9M 3D
5	2,500,000.00	17/10/11	05/10/11	07/09/13	1Y 9M 3D
TOTAL	10,000,000.00				

The applicant reported form FCTRS with a delay of 1Y 9M 3D on five occasions beyond the stipulated time of 60 days. Whereas, in terms of Regulation 10 B(2) read with paragraph 10 of Schedule I to Notification No. FEMA 20, in case of transfer of shares or convertible debentures of an Indian company by way of sale from a person resident in India to a person resident outside India or vice versa, the transferor/transferee, resident in India, shall submit to the AD bank a report in the form FC-TRS specified by Reserve Bank from time to time, within 60 days from the date of receipt or payment of the amount of consideration. The onus of submission of the form FC-TRS within the specified time shall be on the transferor / transferee, resident in India.

- 4 The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated May 22, 2019. The applicant appeared for personal hearing on May 27, 2019, during which Mr Nagendra Agarwal, Company Secretary and Head Legal of the company represented the applicant in the cabin of Shri J.K. Pandey, Chief General Manager, Mumbai Regional Office. The representative of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representative of the applicant requested that in view of the foregoing a lenient view may be taken in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.



- 5 I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:
- a) Regulation 10(B)(2) read with Para 10 under Schedule 1 of FEMA 20, due to the delay in submission of Form FCTRS after transfer of shares from person resident in India to Non Resident or vice versa and the contravention relates to total amount of Rs.10,000,000 (Rupees One Crore and Zero Paise Only) with a delay of 1Y 9M 3D approximately.
- 6 It has been declared in the compounding application dated March 08, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.
- 7 In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. However, taking into account the relevant facts and circumstances of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and I consider that an amount of Rs.32,917 (Rupees Thirty Two Thousand Nine Hundred Seventeen and Zero Paise Only) will meet the ends of justice.
- 8 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Regulation 10(B)(2) read with Para 10 under Schedule 1 of FEMA 20, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 32,917 (Rupees Thirty Two Thousand Nine Hundred Seventeen and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Mumbai within a period of 15 days from the date of this order. In case of failure to deposit the compounded amount within the above-mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.



- 9 The above order is passed only in respect of contraventions of Regulation 10(B)(2) read with Para 10 under Schedule 1 of FEMA 20 and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

- 10 The application is disposed of accordingly.
dated: May 30, 2019

Compounding Authority

(J.K. Pandey)

Chief General Manager